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Hollman
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S/N: 09/315,962

Examiner: M. Lee

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Art Unit: 2614

Technology Center 2600

Inventor: McCall et al.

Docket: IN100/100006

Title: Method and Apparatus for Simultaneous Capture of a Spherical Image

AMENDMENT AND RESPONSE

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In reply to the Office Action dated 11/27/01, for which the period for response was subsequently restarted from 03/11/02, Applicant responds as follows:

AMENDMENT

In view of the election responsive to the restriction requirement (dated August 24, 2001), please cancel claims 45-61 without prejudice. The pending claims now read as follows:

36. A method comprising the step of transforming a selected portion of a spherical image to generate a perspective-corrected planar image portion using a computer in real time in response to user input to the computer.

37. The method of claim 36, wherein the user input includes information comprising an identification of the selected portion of the spherical image.

38. The method of claim 36, further including the step of displaying at least a portion of the perspective-corrected planar image portion on a display.

39. The method of claim 36, further including the step of performing at least one of rotating, tilting, and zooming the perspective-corrected planar image portion in real time in response to the user input.

40. The method of claim 36, further including the step of changing a location of the selected portion within the spherical image in real time in response to the user input.

41. The method of claim 36, wherein the selected portion includes a plurality of non-adjacent sub-portions.

42. The method of claim 36, wherein the step of transforming is performed according to at least one calibration coefficient, the at least one calibration coefficient being controlled by the user input.

43. The method of claim 36, wherein the spherical image is a moving picture video image comprising a plurality of still-image spherical image frames, the method further including the step of outputting the perspective-corrected planar image at a real-time video rate compatible with commercial video standards.

44. The method of claim 36, further including the step of rotating the perspective-corrected planar image portion such that the perspective-corrected planar image portion is vertically aligned with a gravity vector.

RESPONSE

Claims 36-42, and 44 were rejected under 35 U.S.C. §102(e), and claim 43 was rejected under 35 U.S.C. §§102(e)/103(a), over Oxaal U.S. Patent No. 6,252,603. These rejections are respectfully traversed because Oxaal cannot be used as valid prior art to this application.

The present application is a divisional application of U.S. Application Serial No. 08/863,584, filed May 27, 1997, which is a continuation in part of 08/386,912, filed February 8, 1995. Accordingly, the latest priority date for the present application is May

27, 1997¹. Relied upon portions of Oxaal '603 are not present in any of the Oxaal applications upon which the Oxaal '603 patent can claim §120 priority to predate the latest priority date for the present application. Accordingly, the Oxaal '603 patent cannot be relied upon to reject the pending claims under 35 U.S.C. §102(e) or §102(e)/103.

The Related U.S. Application Data provided on the face of the Oxaal '603 patent is misleading. In fact, the Oxaal '603 patent is not a straight continuation of U.S. application Serial No. 08/813,873 (now U.S. Patent No. 5,936,630), filed on March 7, 1997. Substantial subject matter included in the Oxaal '603 patent does not appear in application Serial No. 08/813,873 (now Patent No. 5,936,630), nor in application Serial No. 08/478,839 filed June 7, 1995 (now Patent No. 5,684,937), nor in application Serial No. 07/990,250, filed December 14, 1992 (now abandoned). Substantial subject matter of the '603 patent also does not appear in application Serial No. 08/749,166 filed November 14, 1996 (now Patent No. 5,903,782), nor in provisional application Serial No. 60/006,800, filed on November 15, 1995.

35 U.S.C. §102(e) establishes as prior art a U.S. patent that is issued on an application filed prior to the applicant's invention. In the present case, the relied upon Oxaal '603 patent issued on an application filed on July 8, 1999, which is well after the Applicants' latest effective filing date of May 27, 1997. Although the Oxaal '603 patent claims priority under 35 U.S.C. §120 based upon a series of earlier applications, none of those applications that predate Applicants' latest effective filing date of May 27, 1997 disclose the subject matter that is relied upon by the Examiner to reject the claims. Thus, Oxaal's earlier applications are not effective to establish the relied upon subject matter as §102(e) or §102(e)/103 prior art to the claims.

Applicants are submitting herewith textual comparisons of the "Detailed Description of the Preferred Embodiments" section of the applied Oxaal '603 patent with the corresponding sections of Oxaal U.S. Patent No. 5,684,937 and Oxaal U.S. Patent No. 5,903,782. Both of the Oxaal '937 and '782 patents are listed in the Related U.S. Application Data on the cover of the Oxaal '603 patent. In the comparative texts, which

¹ The filing date of the CIP. This is the latest possible priority date for the present application, but earlier priority dates are possible. The cited portions of Oxaal cannot predate this latest priority date, so at this

were created using the Track Changes/Compare Documents function of Microsoft Word on text copied from the U.S. Patent and Trademark Office web-site (www.uspto.gov) patent database, the crossed-out text denotes portions of the Oxaal '937/Oxaal '782 patents that are not included in the Oxaal '603 patent; the underlining marks text of the Oxaal '603 patent that does not appear in the Oxaal '937 and '782 patents, respectively. The comparative texts reveals the great extent to which the subject matter of the Oxaal '603 patent constitutes "new matter" not appearing in either of the applications immediately underlying the Oxaal '937 and '782 patents, or these patents' earlier filed parent/provisional applications. Accordingly, the earliest possible priority date for the new matter in the Oxaal '603 patent is CIP 09/228,760 (filed on Jan. 12, 1999) or Provisional Patent Application No. 60/071,148 (filed Jan. 12, 1998). In either case, the new matter is dated well past the latest effective filing date of May 27, 1997 for the present application, and as such cannot be considered prior art under 35 U.S.C. §102(e).

The particular portions of the Oxaal '603 patent, which are relied upon to reject claims of the present application, are new matter and cannot be considered valid prior art against the pending claims. Specifically, claims 19, 22, 23, 24, 25 and 26 of Oxaal '603 were cited in rejecting claims of the present application. Likewise, the Office Action cites (column:line) 10:16-20, 9:40-55, 13:30-37, 13:41-46, and 13:16-24 of Oxaal '603 as the basis of the rejection. As shown in the comparative texts, all of the cited portions of Oxaal '603 are new matter having a priority date well after the latest effective filing date of the present application. As such, the cited portions of Oxaal '603 cannot be considered valid prior art against the pending claims.

time it is unnecessary to determine the extent an even earlier priority date is applicable.

For all of the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance. Should the Examiner believe that anything further is desirable in order to place this application in even better form for allowance, he is respectfully urged to telephone applicants' undersigned representative at the below-listed number.

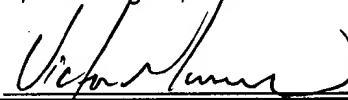
Respectfully Submitted,



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